

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	CG Docket No. 02-278
)	
The Petition for Reconsideration)	
)	
of the National Association of)	
)	
Realtors)	

SUBMISSION FOR THE RECORD

I hereby submit for the record the attached letter faxed to the Honorable Representative Fred Upton and carbon copied to Michael Powell of the Commission.

Respectfully submitted,

_____/s/____

Joe Shields
Texas Government & Public Relations Spokesperson for Private Citizen Inc.
16822 Stardale Lane
Friendswood, Texas 77546

Joe Shields
16822 Stardale Lane
Friendswood, Texas 77546
Home: 281-482-7603
Home and Fax: 281-992-1165
Work: 281-853-3466

Via Facsimile to 202-225-4986

January 20, 2005

The Honorable Representative Fred Upton
2183 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Upton:

I am responding to your letter of December 14th, 2004 to Michael Powell of the Federal Communications Commission. I would like to address your recommendation to the Commission for the creation of a loophole in the Telephone Consumer Protection Act that would effectively neuter the statute.

I believe you have been misled by the National Association of Realtors - the classification of residential, as it is defined in the statute, turns on how the telephone service is billed and not by how realtors that want to sell their services categorize the activities within, surrounding or dealing with a residence.

Many people conduct some business on their residential telephone lines. If the logic of the National Association of Realtors were to prevail then the simple act of a teenager advertising babysitting, lawn mowing or Girl Scout cookies would convert a home to a business.

"Whether or how much home business activities are conducted in Plaintiff's residence is completely irrelevant to whether it is his and other family members' residence. It does not lose the character under the TCPA as a residence, on a residential street, where the family resides, merely because any amount of business is conducted there.... no more so than living in the back room of a business complex turns that complex into a residence for purposes of the TCPA." Margulis v. Fairfield Resorts, Inc., 2004 TCPA Rep. 1292 (Mo. Cir. Aug. 3, 2004)

The monetary value of an item a home owner is advertising for sale, even if it is the home itself, does not eviscerate the protections of privacy and private property that the Telephone Consumer Protection Act insures.

I respectfully request that you reconsider your position in this matter before the Commission. I trust that on further consideration you will serve those that elected you to office and not those selling their services through intrusive telephone solicitations.

Respectfully,



Joe Shields
Senior Systems Engineer

cc: Michael Powell